

DETAILED ACTION

On June 21, 2007, an Office Action was sent to the Applicant rejecting claims 1-21. On November 19, 2007, the Applicant responded by amending claims 14 and 20.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-21 are rejected under 35 U.S.C. 102(e) as being anticipated by Magill (2004/0143542), as set forth in the previous Office Action.

With regard to the amended claims, Magill discloses the quote from the algorithm engine is made without access to the order. The algorithm engine is not provided with access to the trade order (p.6, 85). The subscriber may view the new or pending orders; however, the algorithm is not displayed (p.2, 30).

[0085] The system of invention in its preferred embodiment employs an order-matching algorithm designed to seek the best mutual matching price. This algorithm examines the prices designated within each order (for match orders this is the dynamically calculated match price, for market orders this is equivalent to the nationally disseminated best price) and then selects the mid-point of the two prices (the preferred embodiment of which is expressed and matched to four decimal places). In the event that the mid-point is not between the nationally disseminated best bid and ask prices (the NBBO), the system will look for a price at which it can match at a price equal to or better than the NBBO.

Response to Arguments

Applicant's arguments filed November 19, 2007 have been fully considered but they are not persuasive. The Applicant argues that Magill does not disclose an algorithm engine is not provided with access to the trade order or analyzing two different quotes from an algorithm engine and from a National Best Bid and Offer (NBBO) feed. In response, Magill discloses:

[0085] The system of invention in its preferred embodiment employs an order-matching algorithm designed to seek the best mutual matching price. This algorithm examines the prices designated within each order (**for match orders this is the dynamically calculated match price, for market orders this is equivalent to the nationally disseminated best price**) and then selects the mid-point of the two prices (the preferred embodiment of which is expressed and matched to four decimal places). **In the event that the mid-point is not between the nationally disseminated best bid and ask prices (the NBBO), the system will look for a price at which it can match at a price equal to or better than the NBBO.**

The algorithm engine is not provided with access to the trade order (p.6, 85). The subscriber may view the new or pending orders; however, the algorithm is not displayed (p.2, 30). Further, two different quotes (quotes from an algorithm engine and from a NBBO) are compared to determine the price.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lalita M. Hamilton whose telephone number is (571) 272-6743. The examiner can normally be reached on Tuesday-Thursday (6:30-2:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kalinowski Alexander can be reached on (571) 272-6771. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Lalita M Hamilton/

Primary Examiner, Art Unit 3691